

REMARKS/ARGUMENTS

In the second Office Action mailed September 23, 2003, the Examiner stated that claims 3-9, 11, 13, 16-22, 24 and 26 would be allowable if rewritten in independent form, and rejected claims 1, 10, 12, 14, 23 and 25 under 35 U.S.C. §102(b) and claims 2 and 15 under 35 U.S.C. §103(a) over Sperberg (U.S. Patent No. 3,515,181) stating that the embodiment shown in FIG. 3 anticipates the subject matter of present independent claims 1 and 14.

Applicant appreciates the time and consideration provided by Examiner in reviewing this application, however, respectfully traverses the rejection of the claims at least for the following reasons.

Rejection under 35 U.S.C.102

Anticipation under 35 U.S.C. §102 requires that each and every claimed feature be disclosed by a single prior art reference.

However, as can be seen from the description of the Sperberg's device in Column 3, lines 36-46, and Column 4, lines 38-60, the flow connection between the inlet 54 and the outlet 56 forms a venturi section 52 in order to provide for a relatively high pressure via line 60 and a relatively low pressure via line 58. This arrangement has the effect that the powder particles are whirled up within the container and entrained via line 58 in the main air flow which is present directly between inlet 54 and outlet 56.

This means that the device described by Sperberg requires a direct flow connection between the inlet 54 and the outlet 56, in order to produce the above-mentioned main air flow between the inlet 54 and the outlet 56 with a venturi effect, which is necessary to suck up the whirled up powder from within the container into the direct air flow between the inlet 54 and the outlet 56.

In contrast, in the sealing apparatus of the present application, there is no direct flow connection between the inlet and the outlet, i.e., the communication between the inlet and the outlet takes place exclusively via the container internal space in order to press the sealant from the container towards the outlet.

However, since the independent claims 1 and 14 of the present application did not explicitly mention that the inlet and the outlet communicate with each other exclusively via the container internal space, the claims 1 and 14 are amended to emphasize this feature. This is supported by the specification, for example, page 2, lines 18-22, and page 3, lines 22-26. Accordingly, Applicant

respectfully submits that the independent claims 1 and 14 are novel and allowable over the cited prior art, and therefore the dependent claims should be considered to be allowable.

Rejection under 35 U. S. C. 103(a)

According to MPEP §706.02(j):

“To establish a *prima facie* case of obviousness... the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on the applicant’s disclosure.”

Sperberg can not render the inlet-outlet connection of the present invention obvious, since – as already mentioned above – his direct flow connection between the inlet 54 and the outlet 56 is necessary to provide the venturi effect mentioned above. Therefore, Sperberg clearly teaches away from a flow connection between an inlet and an outlet of the present invention, which goes exclusively through the container internal space.

Therefore, it is respectfully submitted that the claims 2 and 15 are not obvious over Sperberg, and, accordingly, that the claims as amended comply with 35 U.S.C. §103, and the application is in condition for allowance which allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,

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